695 The procedure was the same for all, men and women. The sons
681 of nabas, the nakomsé, however, were neither tried nor punished in
554 public. They were not tied with ropes, but with strips of fabric; and if condemned to death, they were hanged rather than clubbed to death. In any case, complaints against them were extremely rare. The sons of a powerful naba could do anything with impunity.

681 For examples, here are a few crimes and their respective punishments. Of course, there was no written code, no formal scale of penalties. Everything depended on custom and on the whim of the
696 judge. Thus, the wealthy could obtain sentences in their favor by
691 paying the judges, and thieves could avoid punishment by sharing their loot with the naba. Otherwise, a thief caught in the act was
685 flogged, sometimes to death. He was condemned to several months in irons, and exposed to public ridicule before the naba's hut; he had to restore what he had taken, and his family was held responsible. If he repeated the offense, he was led to the marketplace with a rope around his neck; he was supplied with an abundance of meat and dolo /beer/, and then clubbed to death at the foot of a tree. In Ouagadougou he was sometimes made a eunuch instead. This was almost the equivalent of a death sentence, because the operation was carried out in such barbarous fashion that death often ensued. French justice more leniently imprisons the thieves, a cause of complaint by honest people who find the punishment too mild.

682 In case of willful murder, the killer was put to death; if he could
683 not be found, a member of his family was executed in his place.
672 In case of a brawl, no attempt was made to determine who had started the fight or who was in the right. (Manslaughter was punished by a fine paid to the victim's family. The right /26/ of self-defense was, of course, recognized. If blows and wounds had been inflicted, the adversaries were put in irons.)

681 Old women were often accused of being witches and of eating
683 children's souls. If their crime was considered proved, if the sorcerers
888 consulted declared some old woman guilty of a baby's death, she was put to death in very cruel fashion: a second opening was made in a clay pot so that her head could be put completely within it; then the pot was heated intensely and placed over the head of the unfortunate woman.

685 If a goat or sheep caused damage to a field, the animal could be killed on the spot. The owner had to be notified, but he was not

755 must be procured. The leaf used to cover a wound must be held by means of a thin cotton cord with cowries attached at the end, three cowries for a boy, four for a girl. A hemp cord with three or four knots, worn around the neck, wrist, or any other part of the body, prevents swelling of that part and is also a master remedy against hair worms. Sometimes it is not so easy to secure the prescribed amulet, for instance, if it is the beak or claw of a hawk, a deer horn, or certain parts of a buffalo or koba. The poor Mossi goes to great pains to find this indispensable amulet.

763 Do as he may, sooner or later he must die. When an old man feels that his end is near, he calls his family and gives them his last instructions. He talks to his eldest son and tells him where his cattle and caches are to be found, who are his debtors and creditors. Sometimes death comes swiftly without warning, and the old man has no time to talk to his heir; a large part of the fortune is thus lost, because a Mossi in good health never tells anybody, especially not his /68/ children, where his property is, and those to whom he has entrusted it do not return it. Some Peul have made rather nice profits in this fashion.

761 The death of a young man or woman or more especially that of a small child is usually ascribed to an old woman who is said to have 754 eaten the child's soul, and some old women claim to have this secret. [683] The sorcerer points out the guilty woman who is seized and put to death. Every sudden or accidental death is ascribed to an evil spirit, and the funeral ceremonies reflect this.

762 Suicide is extremely rare, but it does occur. Here is one case where we knew the participants. A man quarreled with his wife. The wife, who was stronger than her husband, overwhelmed him in the fight, and the neighbors openly ridiculed him. The following day the husband was found hanging in his hut. A pit was hastily dug [766] in his nearest field, and he was tossed into it naked without further ceremony. Suicide is regarded as a criminal act, and even the corpse is punished for it.

763 Like all human beings, the Mossi fear death. No longer to eat millet mush or to drink dolo seems to them the greatest of misfortunes. Still, when a Mossi sees death approaching, he resigns himself to it and accepts it stoically. He rests his head on the lap of his first wife, and his other wives gather around him. His friends and the village elders sit before the soukala, and all wait silently for hours until the

11: Skinner E-5 (1955-1957) 1964
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V

LAW AND THE JUDICIAL PROCESS

671 The Mossi possessed a comprehensive body of rules governing human conduct. These rules were well known to the people, and violators were punished by the responsible authorities. The Mossi might be said to have had substantive law, but they had no written codes. Nevertheless, the lack of written codes does not warrant Mangin's blanket criticism of Mossi judicial processes: "Of course, there was no written code, no formal scale of penalties. Everything depended on custom and on the whim of the judge. [662] Thus, the wealthy could obtain sentences in their favor by paying the judges, and thieves could avoid punishment by sharing their loot with the Naba."[1] Custom did dictate the penalties, just as "written custom" dictates penalties [692] in all written legal codes. But, as we shall see, the Mossi did have a known [695] scale of penalties. Moreover, a Mossi judge had to be careful in rendering judgment, because his decisions could be reviewed by a higher court.

596 681 The head of the Mossi extended family, the *Yirisoba,* was responsible for the everyday conduct of his charges. It was his duty to settle all family quarrels, and to punish persons guilty of theft within the compound, disrespect toward elders, and incest. Punishment for the lesser wrongs included 596 reprimands and floggings. A person found guilty of disrespect to the elders or of incest could be banished from the group. But banishment was so severe 683 684 that it was imposed only if the criminal refused to make the usual conciliatory gestures and was condemned by all the members of his boodoo. Even after this condemnation, however, he could ask a "sister's son," a yagenga, [613] to intercede for him. This man, the son of a female lineage member, had many privileges within his mother's brother's lineage, including the right to mediate between an exile and his boodoo.

593 586 613 Amicable relations within the family group were most often disrupted by conjugal difficulties. A Mossi husband could occasionally flog an erring wife, but he was not allowed to maltreat her. When a man became disgusted with his wife and wished to repudiate her, he put her water pots in the compound yard. This rather serious action often led to hostile relations

682 found to have been justified—that is, if the victim was a thief or a nocturnal intruder—then the accused was acquitted or simply fined. If, however, the 682 accused was found guilty of murder, he was sentenced to die, and the mode 696 of execution was at the chief's pleasure. The chief surrendered the prisoner to his executioners, serfs who lived in the Baglere ward. They took him into the woods and carried out the sentence by strangulation, hanging, decapitation, clubbing, or stoning.

696 The perpetrator of an unusually heinous crime was often ordered to kill himself with a poisoned arrow. This form of execution was feared most, because it tested the murderer's mettle and called into play the [634] coercive force of his lineage if he proved to be a coward. When such an execution was ordered, the district chief had a poisoned arrow prepared and brought to the murderer's father, his brother, or his father's brother's son. The relative gave the arrow to the condemned man, and, while apologizing for his painful mission, explained that the crime had to be expiated. If the murderer agreed to kill himself, his relatives prepared food and drink for [766] him while his grave was dug. Some proud and brave men helped their relatives dig the oblong-shaped grave required for a murderer; some even insisted on digging it themselves. When both the food and the grave had been prepared, the murderer bade his relatives farewell, took the food and the poisoned arrow, and went into a hut. Here he ate the food and afterward killed himself by pushing the poisoned arrow into his leg. In some 696 cases he had to be provided with a second arrow to hasten his death. If a 626 cowardly murderer refused to kill himself, one of his relatives offered to 613 die in his stead. He told the murderer that death was preferable to the knowledge that his lineage brother was a coward. What would happen, he asked the murderer, if he saw a relative being harmed? Would he choose his own safety rather than run the risk of death? The other relatives asked the same questions, and this subtle coercion was usually sufficient to induce the most cowardly man to kill himself. There are no reports of a murderer's permitting a relative to die for him; life would have been impossible for him afterward. One suspects that if ever a murderer had attempted to elude his fate, the district chief would have had him executed.

634 The district court also prescribed capital punishment for individuals 681 convicted of arson, abduction, witchcraft, or lese majesty. A person con- [685] victed of willfully setting fire to someone's hut or crops was put to death even if no one was killed in the resulting fire; he was held to have [683] jeopardized the life and livelihood of his victims. Similarly, the rare person convicted of threatening the well-being of others through the practice of [695] witchcraft was usually tortured and killed. Conviction usually followed the testimony of witnesses or the confession of the accused.